

Update on Water Related Bills Passed in the 2005 Montana Legislative Session

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The Montana Legislature passed 21 bills that were directly related to water. These are the bills that are addressed in this paper. If you are interested in seeing the full text of the bills, including those that did not pass, please go to www.leg.state.mt.us and click on Bills, 2005 session. A complete copy of every bill is available through the website. Below is a copy of the bill titles for the bills that passed along with a brief summary for some of them that may make more sense with more explanation.

HOUSE BILL NO. 6

INTRODUCED BY WITT

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE OFFICE OF BUDGET AND PROGRAM PLANNING

AN ACT REVISING AND IMPLEMENTING THE RENEWABLE RESOURCE GRANT AND
LOAN PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RENEWABLE
RESOURCE GRANT AND LOAN PROGRAM; PRIORITIZING GRANTS AND AMOUNTS;
ESTABLISHING CONDITIONS FOR GRANTS; PROVIDING FOR A TRANSFER OF FUNDS
FROM THE STATE GENERAL FUND TO THE RENEWABLE RESOURCE GRANT
ACCOUNT; TEMPORARILY REVISING THE USE OF THE RENEWABLE RESOURCE
GRANT AND LOAN STATE SPECIAL REVENUE ACCOUNT; AMENDING SECTION 85-1-
604, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Funding for the Renewable Resource Grants – total entities enumerated: 59 – they are prioritized in the bill and receive the funds as they become available based on that priority. Grants ranged from \$33,694 to \$100,000.

HOUSE BILL NO. 8

INTRODUCED BY J. WITT

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE OFFICE OF BUDGET AND PROGRAM PLANNING

AN ACT APPROVING RENEWABLE RESOURCE PROJECTS AND AUTHORIZING LOANS; REAUTHORIZING
RENEWABLE RESOURCE PROJECTS AUTHORIZED BY THE 58TH LEGISLATURE; APPROPRIATING MONEY TO
THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR LOANS UNDER THE RENEWABLE
RESOURCE GRANT AND LOAN PROGRAM; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS;

AUTHORIZING THE CREATION OF A STATE DEBT AND APPROPRIATING COAL SEVERANCE TAXES FOR DEBT SERVICE; PLACING CERTAIN CONDITIONS UPON LOANS; AND PROVIDING AN EFFECTIVE DATE.

Funding for Renewable Resource Loans -- 3 projects received their initial approval – loan amounts ranged from \$40,000 to \$90,000. Four projects were reauthorized (had been authorized in 2003 but were not able to complete their projects). These projects ranged from \$557,000 to \$3,300,000.

HOUSE BILL NO. 22
INTRODUCED BY MCNUTT
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

AN ACT PROVIDING THE FINDINGS AND PURPOSE OF IMPLEMENTING A WATER ADJUDICATION FEE; PROVIDING BENCHMARKS AND ACTION, INCLUDING ELIMINATION OF THE FEE, THAT MUST BE TAKEN IF BENCHMARKS ARE NOT MET BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; ALLOWING THE REEXAMINATION, PRIOR TO THE ISSUANCE OF A FINAL DECREE, OF CLAIMS IN BASINS THAT WERE VERIFIED; DEFINING "OWNER" FOR PURPOSES OF THE WATER ADJUDICATION FEE; ESTABLISHING WATER ADJUDICATION FEES; PROVIDING THAT THE FEE DOES NOT APPLY TO FEDERAL WATER RIGHTS AND INDIAN RESERVED AND ABORIGINAL CLAIMS TO WATER; PROVIDING THAT THE DEPARTMENT OF REVENUE COLLECT THE FEE ON BEHALF OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ASSIGN ANY UNPAID FEES TO THE DEPARTMENT OF REVENUE FOR COLLECTION; PROVIDING THAT A LIEN MAY BE PLACED ON A WATER RIGHT IF THE FEE IS NOT PAID AFTER COLLECTION EFFORTS; ESTABLISHING A WATER ADJUDICATION ACCOUNT; ESTABLISHING THE AMOUNT OF REVENUE ALLOCATED EACH YEAR FROM THE ACCOUNT; PROVIDING THAT THE FEE MAY NOT BE ASSESSED ONCE \$31 MILLION HAS BEEN DEPOSITED IN THE ADJUDICATION ACCOUNT; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE WATER COURT TO REPORT TO THE ENVIRONMENTAL QUALITY COUNCIL AND THE APPLICABLE LEGISLATIVE APPROPRIATION SUBCOMMITTEES; PROVIDING THE PROCESS FOR EXAMINATION OF CLAIMS IN VERIFIED BASINS PRIOR TO THE ISSUANCE OF A FINAL DECREE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-1-216, 85-2-231, AND 85-2-237, MCA; AN PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

This bill was requested by the Legislative Environmental Quality Council based on their interim study of the water adjudication program in Montana. HB 22's primary purpose was to generate revenue to complete the adjudication through the first decree phase in Montana.

Fees are based on a graduated scale and range from \$20 to \$1000 per year with a cap of 20 water rights per owner. Benchmarks were put in place with regard to claims examination. If DNRC doesn't examine a certain number of claims each biennium then the fee is terminated. A water adjudication account was established. Once this account has had \$31 Million deposited into it the fee is terminated. The legislature must continue to appropriate at least \$2 Million each fiscal year or the fee will be terminated. The bill terminates June 30, 2020.

The water court and DNRC must report to the EQC at each of its regularly scheduled meetings in the interim and to the appropriate appropriations subcommittee during session regarding the progress being made in the adjudication.

HOUSE BILL NO. 78
INTRODUCED BY HARRIS
BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

AN ACT ELIMINATING THE REQUIREMENT THAT PRIOR TO ISSUING OR RENEWING A PERMIT TO OPERATE AN UNDERGROUND STORAGE TANK, THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL MAKE A DETERMINATION OF FULL COMPLIANCE OR ISSUE A COMPLIANCE ORDER; AMENDING SECTION 75-11-509, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Amended section 75-11-509(8) and (9), MCA. Prior language allowed DEQ to issue a permit for an underground storage tank if it was out of compliance after requiring certain corrections within a practicable time period. The amendment struck that language and provided that "Prior to issuing or renewing a permit, the department shall determine, on the basis of the inspection report and other relevant information, whether the operation and maintenance of the tank were in compliance with this part and rules adopted pursuant to this part on the date of inspection."

HOUSE BILL NO. 174
INTRODUCED BY WITT
BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

AN ACT PROVIDING THAT A PRIVATE FISH POND LICENSE IS VALID FOR 10 YEARS; PROVIDING FOR A \$10 APPLICATION AND RENEWAL FEE; PROVIDING FOR THE TRANSFER OF A PRIVATE FISH POND LICENSE IN CERTAIN INSTANCES; AMENDING SECTION 87-4-606, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

This bill provided for a more accurate method of keeping track of private fishponds in Montana. There is now a renewal period – every 10 years with a \$10 application fee and a \$10 renewal fee. For a license that has been in effect for more than 10 years as of April 8, 2005 the license holder must apply for renewal within one year of April 8, 2005. If ownership or control of the private fishpond changes, the new owner or operator is required to apply for a license transfer. FWP must approve the transfer before the new owner or operator can continue operation of the private fishpond. The transferred license retains the remaining portion of the original license's term.

HOUSE BILL NO. 178
INTRODUCED BY J. TAYLOR
BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

AN ACT REVISING THE LAWS RELATING TO WATER USE; CHANGING THE NAME OF THE WATER RIGHT TRANSFER CERTIFICATE TO THE WATER RIGHT OWNERSHIP UPDATE FORM; CLARIFYING THAT THE DEFINITION OF "APPROPRIATE" MEANS THE USE OF WATER FOR A BENEFICIAL USE; PROVIDING THAT TEMPORARY CHANGES OR LEASES FOR INSTREAM FLOW TO MAINTAIN OR ENHANCE INSTREAM FLOW TO BENEFIT THE FISHERY RESOURCE IS AN APPROPRIATION; CLARIFYING THAT CERTAIN ACTIONS ON AN APPLICATION FOR A CHANGE IN APPROPRIATION RIGHT ARE THE SAME AS ACTIONS ON AN APPLICATION FOR A PERMIT; CLARIFYING THAT REVOCATION OR MODIFICATION APPLIES TO CHANGES IN APPROPRIATION RIGHTS; ELIMINATING THE REQUIREMENT THAT THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION NOTIFY THE COUNTY CLERK AND RECORDER OF EACH TRANSFER FILED; ELIMINATING THE REQUIREMENT THAT THE DEPARTMENT PROVIDE AN ADEQUATE SUPPLY OF WATER RIGHT TRANSFER CERTIFICATE FORMS TO EACH COUNTY CLERK AND RECORDER IN THE STATE; ELIMINATING THE REQUIREMENT THAT UPON REQUEST OF THE DEPARTMENT THE COUNTY CLERK AND RECORDER SHALL SEND TO THE DEPARTMENT A COPY OF ANY REALTY TRANSFER CERTIFICATES THAT DISCLOSE A TRANSFER OF WATER RIGHTS; ELIMINATING THE ADJUSTMENT OF FEES TO COVER THE COSTS INCURRED BY THE COUNTY CLERK AND RECORDERS IN PROCESSING WATER RIGHT OWNERSHIP UPDATE FORMS; AMENDING SECTIONS 15-7-305, 15-7-308, 85-2-102, 85-2-117, 85-2-307, 85-2-308, 85-2-310, 85-2-314, 85-2-316, 85-2-421, 85-2-423, 85-2-424, 85-2-426, AND 85-2-431, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

This bill was requested by DNRC and made several changes. These changes are outlined below:

- (1) when a water right is transferred with a property sale a form must be submitted to DNRC to update their records. The name of this form was changed from "water right transfer certificate" to "water right ownership form" to try to avoid the confusion related to whether or not water rights were transferred with the property if this form was or was not submitted.
- (2) Added "temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the fishery resource in accordance with 85-2-408" as part of the definition for "appropriate".
- (3) Added "a use of water through a temporary change or lease to enhance instream flow to benefit the fishery resource in accordance with 85-2-408" as part of the definition of "beneficial use".
- (4) Certain activities have to take place when there is an application for a permit; this bill changed the statute to include a change in appropriation right. So a change application has to go through the same scrutiny as an application for a new water right with regard to: action on an application for a permit or change and revocation or modification of a permit or change.
- (5) This bill helped to make it clearer that DNRC's jurisdiction only applies to an appropriation for the beneficial use of water.

The bill was effective on passage and approval and does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before March 24, 2005.

**HOUSE BILL NO. 206
INTRODUCED BY NOONAN
BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION**

AN ACT RELATING TO THE DESIGNATION AND OPERATION OF CONTROLLED GROUND WATER AREAS PROVIDED FOR UNDER THE WATER USE LAWS; CLARIFYING HOW GROUND WATER MAY BE APPROPRIATED IN CONTROLLED GROUND WATER AREAS; PROVIDING FOR AN ADDITIONAL 2 YEARS TO STUDY TEMPORARY CONTROLLED GROUND WATER AREAS; REQUIRING THAT GROUND WATER STUDIES ARE UNDER DIRECTION AND CONTROL OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; AMENDING SECTIONS 85-2-113, 85-2-306, 85-2-322, 85-2-507, AND 85-2-508, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

HB 206 made clearer the definition for "perennial flowing stream" for the purposes of the controlled ground water area statutes. The bill also provided that groundwater may only be appropriated either (a) according to a permit received pursuant to law or (b) requirements of an order issued by the department pursuant to state law. The bill expanded what an order from the department may include by adding provisions for well spacing requirements, well construction constraints, and prior department approval before well drilling unless the oil and gas laws regulate the well. Before the passage of HB 206 an extension of 2 years could be added to a temporary controlled ground water area. Now, that extension can be up to 4 years but must be approved every 2 years and DNRC has to have sufficient cause for each extension. The law was also amended to allow DNRC to contract or work with other entities to conduct studies. Previous law required the DNRC to conduct the studies. HB 206 changed the statutes so DNRC is no longer required to do the studies themselves but must have supervision and control of the study.

**HOUSE BILL NO. 236
INTRODUCED BY JACKSON**

AN ACT MAKING PERMANENT THE CLARK FORK RIVER BASIN TASK FORCE; PROVIDING DIRECTION ON TASK FORCE RESPONSIBILITIES IN THE FUTURE; AMENDING SECTION 85-2-350, MCA; REPEALING SECTION 6, CHAPTER 447, LAWS OF 2001, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

The Clark Fork River Basin Task Force was due to terminate in 2005. HB 236 removed that termination date and outlined the responsibilities of the task force along with the entities that must be provided reports regarding the task force progress.

**HOUSE BILL NO. 269
INTRODUCED BY CLARK, COHENOUR, DOWELL, HARRIS, VILLA**

AN ACT CLARIFYING THAT A STATE OR COUNTY HIGHWAY, ROAD, OR RIGHT-OF-WAY THAT PROVIDES EXISTING LEGAL ACCESS TO PUBLIC LAND OR WATERS, INCLUDING ACCESS FOR PUBLIC RECREATIONAL USE, MAY BE ABANDONED ONLY IF ANOTHER PUBLIC HIGHWAY, ROAD, OR RIGHT-OF-WAY PROVIDES SUBSTANTIALLY THE SAME ACCESS; AMENDING SECTIONS 7-14-2615 AND 60-2-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

This bill changed the laws regulating abandonment or vacation of county roads to say that the board may not abandon a county road or right-of-way used to provide existing legal access to public land or waters including access for public recreational use as defined and permitted pursuant to state law. It also stated that the highway commission cannot abandon a highway, road, or right of for the same purpose as provided above.

HOUSE BILL NO. 298
INTRODUCED BY CLARK, GOLIE, NOONAN

AN ACT DIRECTING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO USE AVAILABLE MONEY FROM THE FUTURE FISHERIES IMPROVEMENT PROGRAM, THE BULL TROUT AND CUTTHROAT TROUT ENHANCEMENT PROGRAM, THE RIVER RESTORATION PROGRAM, OR OTHER DEPARTMENT FUNDS AVAILABLE FOR VOLUNTARY LEASES OR OTHER WATER AUGMENTATION MEASURES TO MATCH FUNDS FROM THE U.S. FISH AND WILDLIFE SERVICE STATE WILDLIFE GRANT PROGRAM OR OTHER AVAILABLE FEDERAL FUNDS IN ORDER TO ENTER INTO VOLUNTARY LEASES OR OTHER WATER AUGMENTATION MEASURES FOR EMERGENCY INSTREAM FLOWS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

HB 298 consisted of entirely new sections. This bill allowed for funding for voluntary instream flow leases and other water augmentation measures. It also provided that funding may come from any uncommitted funds allocated to the state under the U.S. Fish and Wildlife Service state wildlife grant program or other available federal funds, match by the department with up to \$500,000 from (a) the future fisheries improvement program, (b) the bull trout and cutthroat trout enhancement program, (c) the river restoration program, or (d) a combination of these programs.

HOUSE BILL NO. 308
**INTRODUCED BY MALCOLM, CLARK, JOHN BALLYEAT, EVERETT, GUTSCHE, NOONAN, HARRIS, SINRUD,
SALES, WHEAT**

AN ACT INCLUDING MAINTAINING OR ENHANCING STREAMFLOWS TO BENEFIT THE FISHERY RESOURCE IN THE DEFINITION OF "APPROPRIATE"; INCLUDING A USE OF WATER FOR INSTREAM FLOW TO BENEFIT THE FISHERY RESOURCE IN THE DEFINITION OF "BENEFICIAL USE"; REMOVING THE SPECIFIC STATUTORY

GUIDANCE RELATED TO THE UPPER CLARK FORK RIVER BASIN AND INCLUDING THOSE REQUIREMENTS IN EXISTING STATUTES; REMOVING THE LIMITATION ON THE NUMBER OF TIMES THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MAY RENEW A TEMPORARY CHANGE APPLICATION; PROVIDING THAT AN APPROPRIATOR MUST PROVIDE NOTICE TO THE DEPARTMENT TO RENEW A TEMPORARY CHANGE AND INCREASING THE PERIOD FOR SUBMISSION OF NEW EVIDENCE OF ADVERSE EFFECTS TO OTHER WATER RIGHTS; PROVIDING THAT A TEMPORARY CHANGE AUTHORIZATION APPLICANT MUST INCLUDE CERTAIN INFORMATION REGARDING STREAM REACH, LOCATION, AND A STREAMFLOW MEASURING PLAN; REMOVING THE REQUIREMENT THAT AN APPLICANT FOR A TEMPORARY CHANGE PROVIDE NOTICE 30 DAYS PRIOR TO SUBMISSION OF APPLICATION; PROVIDING THAT THE MAXIMUM QUANTITY OF WATER THAT MAY BE DIVERTED TO MAINTAIN OR ENHANCE STREAMFLOWS TO BENEFIT THE FISHERY RESOURCES MAY NOT EXCEED THE HISTORICALLY DIVERTED AMOUNT, EXCEPT THAT ONLY THE AMOUNT HISTORICALLY CONSUMED, OR A SMALLER AMOUNT IF SPECIFIED IN THE LEASE AUTHORIZATION, MAY BE USED TO MAINTAIN OR ENHANCE STREAMFLOWS BELOW THE LESSOR'S POINT OF DIVERSION; REPEALING THE TERMINATION DATE FOR TEMPORARY CHANGES TO MAINTAIN OR ENHANCE STREAMFLOWS TO BENEFIT THE FISHERY; REPEALING THE TERMINATION DATE ON LEASING FOR THE PURPOSE OF MAINTAINING OR ENHANCING STREAMFLOWS TO BENEFIT THE FISHERY; AMENDING SECTIONS 85-2-102, 85-2-338, 85-2-402, 85-2-404, 85-2-407, 85-2-408, 85-2-419, AND 85-2-436, MCA; REPEALING SECTIONS 85-2-409, 85-2-439, AND 85-2-440, MCA, SECTION 6, CHAPTER 322, LAWS OF 1995, SECTION 14, CHAPTER 487, LAWS OF 1995, SECTION 3, CHAPTER 433, LAWS OF 2001, AND SECTION 3, CHAPTER 122, LAWS OF 2003; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

HB 308 removed the termination dates on the statutes for temporary changes in a water right to maintain or enhance stream flows to benefit the fishery and the termination date on the statute allowing for leasing of water for the purpose of maintaining or enhancing stream flows to benefit the fishery. This bill only removed the termination date on the sections allowing private parties to make temporary changes and leases for these purposes. The statutes allowing the Department of Fish, Wildlife, and Parks to lease water for the benefit of the fishery still contains a termination date of 2009 and were not affected by this legislation.

HOUSE BILL NO. 312

INTRODUCED BY GOLIE, TROPILA, BECKER, BERGREN, CALLAHAN, CLARK, DICKENSON, DRISCOLL, EATON, FRANKLIN, FUREY, GALVIN-HALCRO, GROESBECK, GUTSCHE, HARRIS, HAWKS, HENRY, HINER, JACOBSON, JAYNE, JENT, JOPEK, KAUFMANN, LARSON, LIND, LINDEEN, MUSGROVE, NOONAN, PARKER, RASER, SESSO, TOOLE, WANZENRIED, WINDHAM

AN ACT DIRECTING THE EXPENDITURE OF THE PORTION OF SMITH RIVER USER FEES DEPOSITED IN THE SMITH RIVER CORRIDOR ENHANCEMENT ACCOUNT FOR SPECIFIC PURPOSES RELATED TO THE

PRESERVATION AND ENHANCEMENT OF THE SMITH RIVER CORRIDOR; AMENDING SECTION 23-2-409, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

This bill expanded the statute related to allocation of user fees from Smith River users. The bill limited the types of activities on which the money can be spent. These three activities were:

- (1) protect and enhance the integrity of the natural and scenic beauty of the Smith River waterway and its recreational, fisheries, and wildlife values through the lease or acquisition of property, including lease or acquisition of partial interests in property by the department within the Smith River corridor;
- (2) pursue projects that serve to protect, enhance, and restore fisheries habitat, streambank stabilization, erosion control, and recreational values within the Smith River corridor, including Smith River tributaries; and
- (3) pursue projects that serve to maintain and enhance instream flows for recognized recreational and aquatic ecosystem values in the Smith River corridor.

**HOUSE BILL NO. 609
INTRODUCED BY TAYLOR, JACKSON, HEINERT**

AN ACT PROVIDING THAT INJUNCTIVE RELIEF IS AVAILABLE FOR A PERSON TRYING TO ENFORCE A WATER RIGHT; PROVIDING THAT A PERSON TRYING TO ENFORCE A WATER RIGHT MUST BE AWARDED REASONABLE COSTS AND ATTORNEY FEES; AMENDING SECTION 85-2-125, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

HB 609 made it clear that a party obtaining injunctive relief in an action to enforce a water right must be awarded reasonable costs and attorney fees. "Enforcing a water right", for this statute, means an action by a party with a water right to enjoin the use of water by a person that does not have a water right.

**HOUSE BILL NO. 748
INTRODUCED BY WELLS
BY REQUEST OF THE HOUSE JOINT APPROPRIATIONS SUBCOMMITTEE ON LONG RANGE PLANNING**

AN ACT AUTHORIZING THE CREATION OF STATE DEBT THROUGH THE ISSUANCE OF GENERAL OBLIGATION BONDS; APPROPRIATING THE PROCEEDS OF THE BONDS FOR STATE MATCHING FUNDS FOR FEDERAL WATER RESOURCE PROJECTS; PROVIDING FOR DEBT SERVICE PAYMENTS FROM AVAILABLE AMOUNTS IN THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM SPECIAL REVENUE ACCOUNT; PROVIDING FOR MATTERS RELATING TO APPROPRIATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

**HOUSE BILL NO. 782
INTRODUCED BY MCNUTT, WHEAT**

AN ACT PROVIDING THAT ISSUE REMARKS MUST BE FINALLY RESOLVED BEFORE ISSUANCE OF A FINAL DECREE; PROVIDING THAT THE ATTORNEY GENERAL MAY INTERVENE IN THE PROCEEDINGS BEFORE THE WATER COURT ON ISSUE REMARKS THAT HAVE NOT BEEN OTHERWISE RESOLVED; PROVIDING THAT ISSUE REMARKS ARE EVIDENCE TO BE WEIGHED AGAINST THE PRIMA FACIE STATUS OF A WATER RIGHT CLAIM; PROVIDING THAT RESOLVING OBJECTIONS IS OF HIGHER IMPORTANCE THAN RESOLVING ISSUE REMARKS UNLESS OTHERWISE DETERMINED BY THE CHIEF WATER JUDGE; AMENDING SECTIONS 85-2-232, 85-2-233, 85-2-234, AND 85-2-235, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

This bill addresses the fact that issue remarks have remained on claims after a decree has been issued. The bill made it clear that all issue remarks (placed on a water right claim during the claims examination process) must be finally resolved before the issuance of a final decree. The bill made it clear that hearing objections must be placed as a higher priority by the chief water judge that resolving issue remarks that did not receive an objection. The bill also made it clear that the attorney general may intervene on issue remarks that have not been resolved through the objection process. The bill also outlined the process to be followed by the water court when an issue remark has not been resolved. HB 782 made it clear that issue remarks are evidence to be weighed against the prima facie status of a claim.

SENATE BILL NO. 20
INTRODUCED BY ROUSH

AN ACT REMOVING THE REQUIREMENT THAT A MUNICIPALITY DIVERT ITS WATER FROM AN A-CLOSED WATER BODY IN ORDER TO QUALIFY FOR THE CONSIDERATION FOR NONABANDONMENT OF A MUNICIPAL WATER RIGHT; INCLUDING A MUNICIPAL WATER SUPPLY THAT IS GOING TO BE USED AS APPROVED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AS A CRITERION FOR DETERMINING NONABANDONMENT; AND AMENDING SECTION 85-2-227, MCA.

Expanded the criteria for presumption of nonabandonment for municipal water rights to include those municipalities who maintain facilities connected to the municipally water supply system to apply the water right to any use approved by DNRC under Title 85, chapter 2, part 4 (Utilization of Water). The bill also removed that the municipality had to divert its water from an A-closed water body in order to qualify.

SENATE BILL NO. 107
INTRODUCED BY SMITH
BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

AN ACT CLARIFYING WHEN SPECIFIC GROUND WATER MANAGEMENT PLANS MUST OR MAY BE DEVELOPED AND IMPLEMENTED; ALLOWING THE DEPARTMENT OF AGRICULTURE TO INITIATE EDUCATIONAL PROGRAMS ABOUT AGRICULTURAL MANAGEMENT IN AN EFFORT TO PRECLUDE THE NEED FOR DEVELOPING SPECIFIC GROUND WATER MANAGEMENT PLANS IN THE FUTURE; AMENDING SECTIONS 80-15-212 AND 80-15-213, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Prior to the passage of SB 107 the Department of Agriculture was required to develop and implement agricultural chemical ground water management plans in certain instances. SB 107 provided instances in which the Department may develop and implement and agricultural chemical ground water management plan. The bill also provided that the Department may initiate educational programs.

**SENATE BILL NO. 124
INTRODUCED BY G. ROUSH
BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION**

AN ACT ALLOWING MONEY IN THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM SPECIAL REVENUE ACCOUNT TO BE USED TO PAY THE COSTS OF ELIGIBLE PROJECTS ON AN INTERIM BASIS; AMENDING SECTION 90-6-715, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

This bill provided an opportunity for "gap funding" between when federal funds are appropriated and when the state actually receives the money.

**SENATE BILL NO. 138
INTRODUCED BY WEINBERG
BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION**

AN ACT REVISING LAWS RELATED TO THE FLATHEAD BASIN COMMISSION; INCREASING THE NUMBER OF COMMISSION MEMBERS; MAKING PERMANENT THE ATTACHMENT OF THE FLATHEAD BASIN COMMISSION TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR ADMINISTRATIVE PURPOSES; AMENDING SECTION 2-15-3330, MCA; REPEALING SECTION 4, CHAPTER 537, LAWS OF 2003; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

**SENATE BILL NO. 314
INTRODUCED BY LARSON, GILLAN, LINDEEN**

AN ACT REVISING COMMISSIONER QUALIFICATIONS FOR IRRIGATION DISTRICTS; DEFINING THE TERM "ENTITY"; AMENDING SECTION 85-7-1501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

This bill expanded what an "entity" is considered and expanded on what an entity must be to qualify as an irrigation commissioner. Allows a commissioner to be a resident of a neighboring county as long as the entity owns irrigable land within the division of the district that the entity would represent.

**SENATE BILL NO. 498
INTRODUCED BY BLACK, BALES, L. JONES, WITT**

AN ACT INCREASING THE LIMIT TO \$400,000 FOR A LOAN TO A PRIVATE PERSON THAT IS NOT A WATER USERS' ASSOCIATION OR DITCH COMPANY AND \$3 MILLION FOR A LOAN TO A WATER USERS' ASSOCIATION OR DITCH COMPANY FROM THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM STATE SPECIAL REVENUE ACCOUNT OR THE RENEWABLE RESOURCE LOAN PROCEEDS ACCOUNT; AMENDING SECTION 85-1-613, MCA; AND PROVIDING A TERMINATION DATE.

**HOUSE JOINT RESOLUTION NO. 3
INTRODUCED BY JACKSON**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ENTER INTO NEGOTIATIONS WITH THE UNITED STATES BUREAU OF RECLAMATION TO DETERMINE THE AVAILABILITY AND COST OF WATER STORED BEHIND HUNGRY HORSE DAM FOR WHICH THE STATE OF MONTANA MIGHT CONTRACT TO SUPPORT FUTURE WATER DEVELOPMENT AND EXISTING WATER USE IN THE CLARK FORK RIVER BASIN.

**HOUSE JOINT RESOLUTION NO. 4
INTRODUCED BY PETERSON, MCNUIT, BUTCHER, CAMPBELL, WAITSCHIES**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING MONTANA'S CONGRESSIONAL DELEGATION TO INTRODUCE AND SUPPORT LEGISLATION REQUIRING THE U.S. ARMY CORPS OF ENGINEERS TO INCREASE AND MAINTAIN A MINIMUM POOL ELEVATION IN FORT PECK RESERVOIR OF 2226 FEET ABOVE MEAN SEA LEVEL.

**HOUSE JOINT RESOLUTION NO. 34
INTRODUCED BY COHENOUR, DICKENSON, SESSO, MUSGROVE, CAMPBELL, WINDY BOY, VILLA,
GROESBECK, NOONAN, BERGREN, GOLIE, KEANE, FRANKLIN, CALLAHAN, GALVIN-HALCRO, PARKER,
HEINERT, MAEDJE**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO IDENTIFY ALL OF THE SUPERFUND SITES IN MONTANA AND TO STUDY THE IMPACTS OF SUPERFUND SITES ON COMMUNITIES DIRECTLY IMPACTED BY A SUPERFUND SITE.

**SENATE JOINT RESOLUTION NO. 9
INTRODUCED BY TESTER**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING FEDERAL FUNDS FOR REHABILITATION OF THE ST. MARY DIVERSION FACILITIES AND URGING THE SUPPORT AND LEADERSHIP OF THE MONTANA CONGRESSIONAL DELEGATION.